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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. SHAWN THOMAS CONRAD, Defendant.	CR 18-151-BLG-SPW <u>OFFER OF PROOF</u>
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Defendant Shawn Thomas Conrad has signed a plea agreement which contemplates his plea of guilty to Count II of the Indictment. Count II charges possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(b). The

Indictment also contains a forfeiture allegation which the defendant will admit. The defendant's pleas of guilty will be unconditional.

The United States presented any and all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the court represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

PENALTY: Count II carries a penalty of up to 10 years imprisonment, a \$250,000 fine, not less than five years of supervised release and not more than lifetime supervised release, and a \$100 special assessment. In addition, if the defendant is not found to be indigent by the sentencing Court, count II carries a mandatory special assessment of \$5,000 under the Justice for Victims of Trafficking Act of 2015.

ELEMENTS: In order to prove Count II against the defendant at trial, the United States would have to prove the following elements beyond a reasonable doubt:

Count II: Possession of Child Pornography, in violation of 18 U.S.C. § 2252A(a)(5)(b):

First, that the defendant knowingly possessed any computer disk or other material that the defendant knew contained an image of child pornography;

Second, that the defendant knew that the image contained on the computer disk or other material was of or showed a minor engaged in sexually explicit conduct;

Third, that the defendant knew that the production of such image involved the use of a minor engaging in sexually explicit conduct; and

Fourth, the computer disk and other material containing an image of child pornography had been shipped or transported using any means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce by any means, including computer.

Forfeiture: In order for property to be forfeited, the United States would need to prove that the following property was used to facilitate the commission of the offense:

Dell laptop, serial number D7YDN52; and
Seagate GoFlex external hard drive, serial number NA0Q529P.

PROOF. If called upon to prove this case at trial, and to provide a factual basis for the defendant's plea, the United States would present, by way of the testimony of law enforcement officers, lay and expert witnesses, and physical evidence, the following:

1. In early August 2018, the Billings Police Department, a member of the Montana Internet Crimes Against Children Task Force, investigated the defendant for a child pornography crime. At that time, the defendant was an employee of the United States Fish and Wildlife Service (USFWS). Based on the same underlying investigation, the defendant's supervisor went to the defendant's home on the morning of August 4, 2018, and seized a USFWS

vehicle. At that time, the defendant stated his personal hard drive was in the vehicle. While the defendant asked for this hard drive, his supervisor did not return it. That evening, the defendant contacted his supervisor and again stated the external hard drive in the vehicle was his personal hard drive and asked that it be returned to him. The USFWS obtained a search warrant for the external hard drive that was located in the vehicle, and the hard drive was forensically examined. The hard drive was a Seagate GoFlex external hard drive, serial number NA0Q529P.

2. On August 23, 2018, the Billings Police Department served a search warrant at the defendant's residence. They seized the defendant's Dell laptop computer, serial number D7YDN52. The laptop was also forensically examined.
3. Images of children engaged in sexually explicit conduct (i.e. the lascivious exhibition of a child's genitals or pubic area) were located on the external hard drive. A video depicting a child engaged in sexually explicit conduct (i.e. the lascivious exhibition of a child's genitals or pubic area) was located on the laptop. The video was located in unallocated space. The examiner also determined that the laptop had processed an enormous amount of data in that the user of the laptop had deleted or copied a large amount of data from the laptop on August 3 and August 4, 2019, which were dates that were relevant to the investigation.

DATED this 27th day of March, 2019.

KURT G. ALME
United States Attorney

/s/ Cyndee L. Peterson
CYNDEE L. PETERSON
Assistant U.S. Attorney